

[REDACTED]  
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OCT 26 1989

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(c)(3) of the Internal Revenue Code.

The data submitted discloses you were organized on [REDACTED] and your By-laws are your organizational document. Your stated purpose is to promote human rights and gay rights in the [REDACTED] community and specifically, for raising money to support financially and, otherwise, political candidates supportive of such rights.

Your activities include providing political education which includes forums, debates and voter education on a local level, to the general public.

Your income is derived from benefits, grass roots soliciting, and benefactors.

Expenditures are for printing, stationary, postage, professional and casual labor, rent, telephone, insurance, advertising, and promotion, and miscellaneous. Your net amount is available for political contributions.

Section 501(c)(3) of the Code provides for the exemption from federal income taxes of organizations organized and operated exclusively for charitable, scientific, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

An organization is not operated exclusively for one or more exempt purposes if it is an "action" organization.

Section 1.501(c)(3)-1(c)(3)(iii) of the Income Tax Regulations states that an organization is an "action" organization if it participates or intervenes, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office. The term "candidate for public office" means an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, State, or local. Activities which constitute participation or intervention in a political campaign on behalf of or in opposition to a candidate include, but are not limited to, the publication or distribution of written or printed statements or the making of oral statements on behalf of or in opposition to such candidate.

Christian Echoes National Ministry, Inc. CA-10, 73-1 USTC 9129, 470 F 2d 849, Cert. denied, 414 US 864, revoked exemption to the church who, though religiously motivated, engaged in substantial activity aimed at influencing legislation. Direct and indirect appeals to legislators and the public were found to constitute efforts to influence legislation. And efforts to defeat liberal political candidates, while not a formal endorsement of any specific candidate, amounted to intervention in political campaigning.

In Better Business Bureau vs. U.S., 326 U.S. 279, the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under section 501(c)(3) of the Code, regardless of the importance of the truly exempt purpose.

Revenue Ruling 67-368, C.B. 1967-2, 194 denied exemption to an organization under Section 501(c)(4) whose primary activity was rating candidates for public office because such activity did not constitute "the promotion of social welfare".

Section 1.501(c)(4)-1(a)(2) of the Income Tax Regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. In addition, the regulations provide that the promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.

On the basis of the information provided, we have concluded that you do not qualify for tax-exempt status as an organization described in section 501(c)(3) or 501(c)(4) of the Code because.

- a. You do not meet the operational test within sections 1.501(c)(3)-1(c) or 1.501(c)(4)-1(a)(2) of the Income Tax Regulations since your primary function is direct and indirect participation or intervention in political activity.

- b. You do not meet the organizational test within section 1.501(c)(3)-1(b)(4) of the Income Tax Regulations since your By-laws do not provide for the dedication of your assets upon dissolution.

Therefore, you are not organized and operated exclusively for charitable purposes under section 501(c)(3) of the Code.

Contributions to your organization are not deductible under Code section 170. You are required to file federal income tax returns on Form 1120. Also, the appropriate State official will be notified of this action in accordance with section 6104(c) of the Code.

If you do not agree with our determination, you may request consideration of this matter by the office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides, in part, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

District Director

Enclosure: Publication 892

cc: State Attorney General (■)